IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 4805 of 2001
with
CRIMINAL MISC. APPLICATION No 4806 of 2001
with
CRIMINAL MISC. APPLICATION No 5306 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BAGHABHAI PARSOTAMBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:
MR PRAVIN GONDALIYA for Petitioner No. 1
MR KC SHAH APP for Respondent No. 1
MR YOGESH S LAKHANI for Respondents No. 2-3

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 20/03/2002

COMMON ORAL JUDGEMENT

#. All these applications are heard together and disposed of by this common judgment and order as they are arising out of one FIR No.CR No.26 of 2001.

#. Criminal Misc. Application No.4805 and 4806 of 2001 are filed by original complainant Bhaghabhai Parsotambhai Patel whereas Criminal Misc. Application No.5306 of 2001 is filed by the State of Gujarat. In Criminal Misc. Application No.4805 of 2001 and 5306 of 2001 impugned order dated 16.4.2001 was passed in Criminal Misc. Application No.136 of 2001 releasing the respondents-accused-Ravjibhai and Bachubhai on bail are challenged. Whereas, in the Criminal Misc. Application No.4806 of 2001, the impugned order dated 24.4.2001 passed by the learned Sessions Judge, Amreli in Criminal Misc. Application No.149 of 2001 is challenged whereby the respondent-accused Bhaghabhai @Ranchhodbhai Ramjibhai is released on bail.

#. It appears from the papers of all these applications that first Misc. Criminal Application No.136 of 2001 was filed by the respondent-accused Ravjibhai Pragjibhai and Bachubhai Pragjibhai before the court of Sessions Judge, Amreli for releasing them on bail. The said bail application was decided by the then learned Sessions Judge by his judgment and order dated 16.4.2001 whereby he released both the respondents-accused on bail on certain terms and conditions. It appears from para 13 of the said judgment that while releasing respondents-accused-Ravjibhai and Bachubhai on bail, the fact of main accused Ranchhodbhai Ramjibhai not filing any application for releasing on bail appealed the learned Judge much coupled with the fact that the injured persons were discharged from hospital after giving treatment to them and that cross complaints were filed against each other. Considering the medical certificates of the injured, the learned Judge was of the opinion that no prima facie case is made out for the death sentence or life imprisonment and that all the accused were of one family, therefore, he released them on bail.

#. After the respondents-accused Ravjibhai and Bachubhai enlarged on bail, the main accused Bhaghabhai @Ranchhodbhai filed Criminal Misc. Application No.149 of 2001. The same came to be allowed by the learned Judge by judgment and order dated 24.4.2001 and the respondent-accused Bhaghabhai @Ranchhodbhai Ramjibhai also came to be released on bail on certain terms and conditions. It appears from the discussion made by the learned Judge at typed page 11 of his judgment that all

other accused being enlarged on bail in Criminal Misc. Application Nos.129 and 136 of 2001 on 24th and 16th April, 2001, respectively weighed much with him coupled with the fact that the learned Judge was of the opinion that when cross cases have been filed in the matter and that the applicant-accused Bhaghabhai Parsotambhai Patel himself has received serious injuries, then he should be enlarged on bail.

#. Learned APP Mr.Shah and learned counsel Mr.Pravin Gondalia for the complainants rightly submitted that the learned Judge was wrong in first granting the application of co-accused on the ground that the main accused Bhaghabhai @Ranchhodbhai has not even applied for bail and thereafter granting bail application of main accused Bhaghabhai @Ranchhodbhai on the ground that the co-accused of the case have already enlarged on bail, therefore, he should be enlarged on bail. If this was the only reasoning then perhaps this court would have interfered, but from the impugned orders passed by the learned Judge it appears that other factors like filing of cross cases, main accused Bhaghabhai @Ranchhodbhai receiving serious bleeding injuries etc. were also considered by the learned Judge for releasing the respondents-accused on bail. The impugned orders of bail came to be passed in the month of April, 2001 and today we are in the end of March, 2002. Thus, almost a period of one year has already passed by now, therefore, on

interfere with the impugned orders passed by the learned Judge releasing the respondents-accused on bail.

#. In view of the above discussion, all these applications for cancellation of bail filed by the State of Gujarat and private complainants are hereby dismissed.

#. However, it is made clear that if the respondents-accused have misused their liberty by committing breach of any conditions imposed by the learned Judge while releasing them on bail, then it is always open either to the State of Gujarat or to the private complainant to apply first before the Sessions Court for cancelling their bail. With these observations all these applications are dismissed. Rule and notice discharged accordingly.

(B.J.Shethna, J.)
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